

### REMARKS

Claims 1, 10, 47-49 and 52 to 56 will be pending upon entry of this Amendment. This Amendment cancels claims 2-9, 11-15, 28-32 and 51. In the Office Action, pending claims 1, 10, 47-49 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. patent 6,331,365 ("King"). As discussed below, this rejection is traversed in part, and claim 1 has also been amended to overcome this rejection in part.

#### I. The King Reference

The relevant disclosures of the King reference have been previously set forth in applicant's previous response of June 19, 2006 and will not be repeated here.

#### II. Claims 1 And 10

Claim 1 has been amended to include the language of (now cancelled) dependent claim 9. Specifically, claim 1 (as amended) sets forth a system that recites "a first rechargeable energy battery having a first total impedance," "a second rechargeable power battery having a second total impedance," and that "the **second total impedance is between 10% to 60% of the first total impedance.**" (emphasis added) King does not teach or suggest the quoted claim language. For this reason, claims 1 and 10 are patentable over King.

#### III. Claim 47

Claim 47 sets forth a vehicle that recites "the first battery is spatially proximate to the motor and the second battery is spatially remote from the motor." As was previously pointed out, King does not discuss at all the spatial location of its power battery (first battery) or its energy battery (second battery). Therefore, King does not teach or suggest the quoted claim language. In the latest response Office Action states, in response to this argument, that "both batteries are located in the vehicle and remote to the motor can not be given any weight since any battery in a vehicle can be in a spatially proximate or spatially remote to the motor." To the extent that applicant understands this portion of the Office Action, the Office Action is stating

that system of King theoretically could be built in a way to meet the quoted claim language where one type of battery is further from the motor than the other. It is respectfully submitted that this explanation is not sufficient to make up for the lack of disclosure of the quoted claim language within the King reference itself. Anticipation requires that every part of the claim be disclosed in the applied art.<sup>1</sup> The spatial relationships in claim 47 are not disclosed in King. For this reason, claims 47-49 are not anticipated by King.

#### IV. Support For Newly-Added Claims 52-56

Exemplary support for newly added claims will now be set forth in table form.

Claim(s)	Support In the Specification In the Specification (as Originally Filed)
52-54	Fig. 3; Page 37, line 14 to page 38, line 2.
55-56	Fig. 3, page 38, line 9 to page 40, line 29.

#### V. Patentability Of Newly-Added Claims 52-56

Claim 52 sets forth a vehicle that recites "a first battery circuitry structured to electrically connect the first battery and the second battery in parallel so that there are no switch type electrical elements for opening and closing the parallel connection of the first battery circuitry." This is not taught or suggested by the various embodiments of King, which all have diodes or other switch type elements present in the electrical connection between their respective first and second batteries. For example, Fig. 4 of King includes diodes between its energy battery and power battery. For this reason, claims 52-54 are patentable over King.

Claim 55 is directed to vehicle having two batteries with respective voltage ranges as recited in claim 55. Claim 55 further recites that the respective voltage ranges are "substantially overlapping." This overlapping relationship between voltage ranges is not taught or suggested by King. For this reason, claims 55-56 are patentable over King.

<sup>1</sup> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim ... *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

## VI. Conclusion

It is submitted that the foregoing amendments and/or explanations are sufficient to put this application in condition for allowance. If the Examiner disagrees, the Examiner is encouraged to call the undersigned at 1-416-961-5000 to expeditiously resolve any outstanding issues.

It is hereby petitioned under 37 CFR 1-1336 that the response term of this application be extended, as necessary, to permit entry of the present amendment. The Commissioner is hereby authorized to charge any necessary extension fee to deposit account no. 18-1350, under an order number corresponding to attorney docket number P63902.

Respectfully requested,

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Encls.:

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Extension of Time Request

Form PTO-2038 -Authorization of Payment

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